

## MINUTES

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

5/22/2006 4:30 pm

SUE BEITIA, CLERK

CASE NUMBER: CR 05-00376SOM  
CASE NAME: USA vs. Joey Gino Nicolai  
ATTYS FOR PLA: Jonathan Loo  
Terrence Chu (FBI)  
ATTYS FOR DEFT: David Klein  
Peter Yoshihara (USPO)

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JUDGE: Susan Oki Mollway

REPORTER: Debra Chun

DATE: 5/22/2006

TIME: 1:30 - 2:10

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COURT ACTION: EP: Sentencing to Count 1 of the Information; Government's Motion for Downward Departure - -

Defendant Joey Gino Nicolai present and in custody.

The Presentence Investigation Report and the USPO's recommendation are adopted by the Court, and placed under seal.

The Memorandum of Plea Agreement has been accepted by the Court.

Allocution by the Defendant.

Government's Motion for Downward Departure - Granted.

ADJUDGED:

Imprisonment: 57 Months.

Supervised Release: 5 Years.

Special Assessment: \$100.00.

CONDITIONS:

- ▶ That the defendant shall abide by the standard conditions of supervision.
- ▶ That the defendant not commit any crimes, federal, state, or local (mandatory condition).
- ▶ That the defendant not possess illegal controlled substances (mandatory condition)
- ▶ That the defendant shall cooperate in the collection of DNA as directed by the probation officer.
- ▶ That the defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of commencement of supervision and at least two drug tests thereafter. The defendant to submit up to a maximum of one valid drug test per day as directed by Probation Office.
- ▶ That the defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon.
- ▶ That the defendant shall participate in and comply with substance abuse treatment which includes drug and alcohol testing in a program approved by the Probation Office. The defendant is to refrain from the possession and/or use of alcohol while participating in substance abuse treatment.
- ▶ That the defendant execute all financial disclosure forms, and provide the Probation Office and the Financial Litigation Unit of the U.S. Attorney's Office access to any requested financial information to include submitting to periodic debtor's examinations as directed by the Probation Office.
- ▶ That the defendant shall submit his person, residence, place of employment, or vehicle to a search conducted by the U.S. Probation Office at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or Government summarized the evidence against the defendant. Of a violation of a condition of supervision. Failure to submit to a search may be grounds for revocation. The defendant shall warn any other resident that the premises may be subject to search pursuant to this condition.

Defendant advised of his right to appeal

JUDICIAL RECOMMENDATIONS: 1) West Coast Prison Camp such as Sheridan or Lompoc; 2) 500 Hour Comprehensive Drug Treatment Program; 3) Vocational Programs.

Defendant remanded to the custody of the USM.

Mittimus forthwith.

Submitted by: Toni Fujinaga, Courtroom Manager.